

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

KEVIN R. SHAY,	)	
	)	
Petitioner,	)	Civil Action No. 19-213
	)	District Judge David S. Cercone/
v.	)	Magistrate Judge Maureen P. Kelly
	)	
WARDEN GILMORE; THE DISTRICT	)	
ATTORNEY OF THE COUNTY OF	)	
ALLEGHENY; and THE ATTORNEY	)	
GENERAL OF THE STATE OF	)	
PENNSYLVANIA,	)	
	)	
Respondents.	)	
	)	

**MEMORANDUM ORDER**

Kevin R. Shay (“Petitioner”) filed a Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2254 (the “Petition”) in this Court, seeking solely to attack the fact that the state court its sentencing order had not properly credited Petitioner with all the time that he was owed.

The case was referred to Magistrate Judge Maureen Kelly in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Local Civil Rules 72.C and D.

Magistrate Judge Kelly’s Report and Recommendation, ECF No. 43, filed on December 26, 2019, recommended that the Petition be dismissed as moot because, during the pendency of this Petition, the credit against his sentence, which Petitioner had sought in the Petition, was granted to him by the state court at the request of the Respondents.

During the pendency of these proceedings, Petitioner attempted to add many new claims that arose only after the initiation of the Petition. The Court denied these attempts to amend or supplement the original Petition. See, e.g., ECF No. 38.

The undersigned adopted the Report by order dated January 16, 2020 and dismissed the Petition as moot. ECF No. 46.

Petitioner has now filed what he captioned a “Petition to Revisit Claim and Pleading [sic] to Address Respondent(s)” which we will treat as a Motion to Reconsider our January 16, 2020 Order dismissing the Petition as moot. ECF No. 47. In essence, Petitioner is complaining in the Motion to Reconsider that the Department of Corrections is not obeying the state court order to provide him all the credit to which he now claims entitlement thereunder. However, the remedy for this newly arisen claim is not here with this Court but with the state court that issued the sentencing order for a request to enforce its order. We note further that Petitioner indicates he has a currently pending appeal in the Superior Court as well, apparently concerning this issue. *Id.* at 3. Nothing in the Motion to Reconsider persuades us to reconsider our order dismissing the Petition as moot.

Accordingly, **IT IS HEREBY ORDERED** this 4<sup>th</sup> day of February, 2020, the Motion for Reconsideration, ECF No. 47, is DENIED.

BY THE COURT:

s/ David Stewart Cercone

DAVID STEWART CERCONE  
UNITED STATES DISTRICT JUDGE

cc: The Honorable Maureen Kelly  
United States Magistrate Judge

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All Counsel of record via EM-ECF